

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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ALLSTATE INSURANCE COMPANY;
ALLSTATE PROPERTY & CASUALTY
INSURANCE COMPANY; ALLSTATE
INDEMNITY COMPANY; and ALLSTATE
FIRE & CASUALTY INSURANCE
COMPANY,

Plaintiffs,

v.

PETER MARIO BALLE, D.C.; SEBASTIAN
P. BALLE, M.D., ARTHUR ROSSI, D.C.;
RICHARD CHARETTE; ELITE ATL, LLC.,
ACCIDENT INJURY MEDICAL CENTER,
INC.; ACCIDENT TRIAL LAWYERS, LLC.;
REAL TIME MARKETING, INC.; EXPERT
MANAGEMENT, INC.; ANDREW TAYLOR;
RAMSEY AND ASSOCIATES, INC.; and
DENNIS RAMSEY.

Defendants.

Case No. 2:10-cv-02205-APG-NJK

**ORDER DENYING DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT**

(Motion for Summary Judgment –
Dkt. No. 326)

Defendants' Joint Motion for Summary Judgment [Dkt. 326] is denied without prejudice. Genuine issues of material fact exist to preclude entry of summary judgment. There appears to be sufficient evidence to support Plaintiffs' claims and damages calculations to permit Plaintiffs to proceed to trial.

Further, nothing in the relevant Nevada statutes, or in *Humana Inc. v. Forsyth*, 525 U.S. 299 (1999), precludes a private right of action by Plaintiffs to maintain this lawsuit. To the contrary, the Supreme Court stated in *Humana* that "[v]ictims of insurance fraud may also pursue

1 private actions under Nevada law.” 525 U.S. at 312. NRS 686A.292(3) specifically states that
2 “[a]n insurer . . . shall be deemed to be a victim for the purposes of restitution in a case that
3 involves insurance fraud or that is related to a claim of insurance fraud.” While this language
4 applies to restitution in a criminal prosecution for insurance fraud, it evidences the Nevada
5 Legislature’s recognition that insurers (not just insureds) can be victims of insurance fraud. Thus,
6 Plaintiffs’ lawsuit is not barred by *Humana* or NRS chapter 686A.

7 Finally, nothing in the relevant Nevada statutes precludes Plaintiffs from recovering
8 punitive damages if they are able to satisfy the legal and factual bases for them.

9 Dated this 3rd day of February, 2014.

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13 ANDREW P. GORDON
14 UNITED STATES DISTRICT JUDGE
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